

Appl. No. 09/728,881  
Amdt. dated 10/08/2004  
Reply to Office action of 06/08/2004

### REMARKS

This Amendment is in response to the Office Action mailed 06/08/2004. In the Office Action, the Examiner rejected claims 1, 7, 13, and 19 under 35 U.S.C. § 102, and rejected claims 2-6, 8-12, 14-18, and 20-22 under 35 U.S.C. § 103. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

#### *Rejection Under 35 U.S.C. § 102*

1. The Examiner rejects claims 1, 7, 13, and 19 under 35 U.S.C. § 102(e) as being anticipated by Fawaz et al. (6,654,374).

Applicant has amended claim 1 to include the element of --scheduling a grant for a virtual output queue associated with a destination port wherein the virtual output queue having the smallest theoretical departure time is scheduled if the theoretical departure time is less than a current time-- which was previously included in claims 3-5, now cancelled. Applicant has further amended claim 1 to include the element of --stopping the increment of the current time to reduce incoming traffic to the congested port to a guaranteed bandwidth of traffic until the destination port is uncongested-- as disclosed on page 10, lines 4-9, of the specification as originally filed. Claims 7, 13, and 19 are similarly amended.

Applicant respectfully submits that Fawaz does not disclose stopping the increment of the current time as now claimed.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 1, 7, 13, and 19 under 35 U.S.C. § 102(e) as being anticipated by Fawaz.

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***Rejection Under 35 U.S.C. § 103***

3. The Examiner rejects claims 2, 8, 14, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Fawaz et al. (6,654,374).

Applicant relies on the patentability of the claims from which these claims depend to traverse the rejection without prejudice to any further basis for patentability of these claims based on the additional elements recited.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 2, 8, 14, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Fawaz.

The Examiner rejects claims 3-6, 9-12, 15-18, and 21-22 under 35 U.S.C. § 103(a) as being unpatentable over Fawaz et al. (6,654,374) in view of Milliken et al. (6,526,062).

Claims 3-5, 9-11, 15-17, and 21-22 are cancelled.

Regarding claim 6, applicant has amended the claim to provide that a round robin scheduling method or a priority based scheduling method is used --if no theoretical departure time is less than the current time.-- Applicant respectfully submits that Milliken does not teach or suggest the element of "scheduling a grant to one of the virtual output queues associated with the congested destination port using either a round robin scheduling method or a priority based scheduling method if no theoretical departure time is less than the current time" as now claimed. Further, the Examiner has provided no motivation to combine the references. The combination of references fails to teach each and every element of the claim as amended. Claims 12 and 18 are similarly amended. Claim 35 is newly presented to claim an apparatus using elements similar to those of claims 6, 12, and 18.

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Applicant respectfully requests that the Examiner withdraw the rejection of claims 3-6, 9-12, 15-18, and 21-22 under 35 U.S.C. § 103(a) as being unpatentable over Fawaz in view of Milliken.

***New Claims***

Applicant presents new claims 23-34, and 36-39 that include elements described in the specification as filed on page 11, line 11, through page 12, line 18. No new matter is added.

***Conclusion***

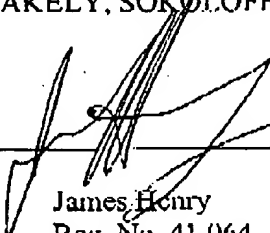
Applicant reserves all rights with respect to the applicability of the doctrine of equivalents. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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